

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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SHANE C. HOLLMER and LEE E. CLEVELAND  
Junior Party  
(Patent 5,828,601),

v.

ELIYAHOU HARARI and SANJAY MEHROTRA  
Senior Party  
(Application 09/310,880).

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Patent Interference No. 105,606 (JL)  
(Technology Center 2800)

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**RE-DECLARATION - Bd.R. 203(c)<sup>1</sup>**

It has come to the attention of the administrative patent judge that Harari's involved application and each of the ancestral cases to which Harari had been accorded benefit in the initial declaration of interference was respectively filed on different dates and states in the specification as filed that it incorporates by reference the disclosure of an application "filed on the same day as the present application." Even assuming for the moment that general incorporations by reference as such are proper, which they are not, the target of incorporation is facially different from case to case and thus each subsequent case appears to add new matter relative to all preceding cases in the chain. It is

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

Interference 105606  
Harari v. Hollmer

**ORDERED** that this interference is herein re-declared so that party Harari is not initially accorded the benefit of any prior application with respect to Count 1, and is now the junior party, as indicated below:

**Identification and order of the parties**

Senior Party

Named inventors: SHANE C. HOLLMER, Santa Clara, CA  
LEE E. CLEVELAND, Santa Clara, CA  
Involved Patent: 5,828,601 granted 27 October 1998 based on  
Application 08/160,582, filed 1 December 1993  
Title: Programmed reference  
Real Party In Interest: Spansion LLC

Junior Party

Named Inventors: ELIYAHOU HARARI, Los Gatos, CA  
SANJAY MEHROTRA, Milpitas, CA  
Involved Application: 09/310,880 filed 14 May 1999  
Title: Flash eeprom system  
Assignee: SanDisk Corporation

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

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**Count and claims of the parties**

Count 1

**Harari's Application claim 76 or Hollmer's patent claim 1**

The claims of the parties are:

Hollmer: Claims 1-16

Harari: Claims 76-80

The claims of the parties which correspond to Count 1 are:

Hollmer: Claims 1-3 and 14-16

Harari: Claims 76-80

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Hollmer: Claims 4-13

Harari: None

The parties are accorded the following benefit for Count 1:

Hollmer: None

Harari: None

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**Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see  
SO ¶ 106.1.1:

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Senior Party  
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Patent Interference No. 105,606 (JL)

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/ss/ Jameson Lee  
Administrative Patent Judge

Interference 105606  
Harari v. Hollmer

cc (electronic transmission):

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**Despertt, Sonja**

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**From:** Despertt, Sonja on behalf of Interference Trial Section  
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